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Declaration of Gregory M. Fox
EXHIBIT H (7 pages from Moore Depo)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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SRI LOUISE COLES, et al.,

Plaintiffs,

-vs-

COPY

NO. C03-2961 TEH (JL)
C03-2962 TEH (JL)

CITY OF OAKLAND, a municipal entity,
et al.,

Defendants.

LOCAL 10, INTERNATIONAL LONGSHORE
AND WAREHOUSE UNION, et al.,

Plaintiffs,

-vs-

CITY OF OAKLAND; et al.,

Defendants.

DEPOSITION OF BYRON MOORE

Thursday, April 14, 2005

Reported By:
Evangeline McGonegal
CSR No. 5511
(Huneke)

LUSK & SNYDER
760 MARKET STREET, SUITE 326
SAN FRANCISCO, CALIFORNIA 94102
(415) 362-5991/FAX (415) 362-6198

1 Jack Heyman?

2 A. When I saw Jack, the police was throwing him
3 over a car.

4 Q. Okay. Did you call Mr. Heyman at all that day?

5 A. I don't recall talking to Jack, even though I
6 might have.

7 Q. So you joined your fellow longshoremen standing
8 around their cars in the turn lane; correct?

9 A. That's correct.

10 Q. And I may have asked this, but do you remember
11 who was there with you in the turn lane?

12 A. Oh, who was there with me? It was me,
13 Billy Kepoo, Ernie Evans, Lawrence Massey, and several
14 other brothers, Dave Loville, William Hamlin -- I'm
15 missing somebody -- Christopher Clay, Al Chapman. I
16 think I got everyone that was there that I can recall
17 right now. I think. I might be wrong.

18 Q. That's fine.

19 Did you notice another group of longshoremen
20 standing over on the portside off the roadway here
21 around Gate No. 4?

22 A. We were all standing together. Now, some of us
23 or some of the members might have peeled off and walked
24 over here or walked over there; because as you stand in
25 one place for a long period of time, people tend to

1 wander. Now, I didn't observe anyone standing over
2 there because I was over here with -- oh,
3 Joe Galarza, Jr. was standing over there, too, with the
4 union brothers.

5 Q. When you say "there," you are talking about the
6 turn lane?

7 A. Yeah, the turn lane, in front of the cars. As
8 I stated, some might have wandered over, but I can't
9 recall if they were or who they were.

10 Q. Do you remember if you wandered over from the
11 turn lane over to the side of the road to join the other
12 longshoremen that were standing on the port side off the
13 roadway?

14 A. No. I wish I had. Then I probably wouldn't
15 have got shot.

16 Q. There was some testimony that somebody saw you
17 over on that side, so I was wondering if you remembered
18 that.

19 A. I disagree. If I was standing over there, I
20 wouldn't have got shot. I was right in the middle.

21 Q. When you were talking with your fellow workers
22 in the turn lane after you called your union president,
23 what did you do.

24 A. What did we do? We basically just stood by,
25 talked. General comradery.

1 Q. Talking about anything in particular?

2 A. No, just kind of hanging out and waiting for a
3 decision from the employer and the union to see if we
4 have to go to work or if this issue is going to be
5 resolved.

6 Q. Can you estimate the number of protesters that
7 you saw around the No. 4 location.

8 A. Guesstimate: About 30, I guess.

9 Q. And were there other protesters in other areas?

10 A. Not that I know of until after.

11 Q. So when you first arrived there were about
12 30 protesters at point No. 4. And that was enough to
13 block the parking lot entrance.

14 A. Right.

15 Q. That gate there.

16 A. Sorry about that. I had to wait for you to
17 finish.

18 Q. It is hard to do, isn't it. It's not the way
19 we normally talk.

20 A. I'll get it.

21 Q. Okay.

22 A. Yes, it was about that. That's just a guess.

23 Q. Okay.

24 A. Because they were walking in a circle. They
25 had drums and horns and everything, you know, and they

1 were chanting and singing.

2 Q. When is the first time you noticed any police
3 officers out at the port?

4 A. I didn't notice any police officers until
5 they -- first I saw some more protesters walking up
6 from -- I guess you say from the north from APL.

7 Q. That's, I think, from the south.

8 A. That's the north? Then they are coming this
9 way.

10 Q. From the east?

11 A. East is that way, so that's the west.

12 Q. Yes, from the east to the west.

13 A. From the east to the west.

14 Q. Got you.

15 A. I noticed some protesters; some walking, some
16 running from the west -- excuse me -- from the east
17 going to the west coming toward us. Once they got up to
18 Gate 4, they got in with the group at that gate and
19 started marching. At that time I observed the police
20 officers coming from the east to the west, coming right
21 up to that gate, and making a line. At first they were
22 motorcycles, and then some police officers came up on
23 foot.
24

25 Q. Okay. So do you know what time it was when you
 observed the protesters starting to move toward you from

1 heat of the moment, I didn't feel it.

2 Q. Okay, you are not aware of anything happening
3 to you?

4 A. Exactly. Exactly. But I possibly could have
5 been shot, but the coat might have deflected any wooden
6 dowels or rubber bullets.

7 MR. NISENBAUM: Again, testify to what you
8 remember, you know. Don't speculate.

9 THE WITNESS: Okay.

10 MS. HUNEKE: Q. I'm pretty clear on that. You
11 are just saying you are not aware of any --

12 A. Yeah, I don't know. I might have, but I don't
13 know.

14 Q. And tell me what else you were wearing that
15 day. You had a green jacket. Was it dark green?
16 Light green?

17 A. It's a light green jacket with black stripes,
18 and jeans, sneakers.

19 Q. Did you have a shirt on under the jacket?

20 A. Yes.

21 Q. What was your shirt.

22 A. Was it long sleeve? It was kind of warm.
23 Short sleeve.

24 Q. T-shirt or button?

25 A. No, I always wear a button shirt.

1 STATE OF CALIFORNIA)
2) ss
COUNTY OF ALAMEDA)

3 I, EVANGELINE McGONEGAL, a Certified
4 Shorthand Reporter do hereby certify:

5 That BYRON MOORE, the witness in the
6 foregoing deposition was by me duly sworn to testify to
7 the truth, the whole truth, and nothing but the truth in
8 the within-entitled cause;

9 That said deposition was reported by me, a
10 Certified Shorthand Reporter, at the time and place
11 therein stated and was thereafter transcribed as herein
12 set forth;

13 That the witness was given an opportunity to
14 read and, if necessary, correct said deposition and to
15 subscribe the same.

16 I further certify that I am not interested in
17 the outcome of said action, nor of counsel or attorney
18 for either or any of the parties in the foregoing
19 deposition and caption named, nor connected with, nor
20 related to any of the parties in said action or to their
21 respective counsel.

22 IN WITNESS WHEREOF, I have hereunto set
23 my hand this 27th day of April 2005.

24 
25 EVANGELINE McGONEGAL